

HARRIS

ST. LAURENT

WECHSLER

February 8, 2024

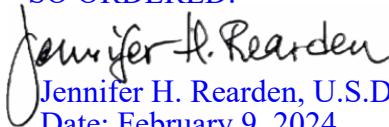
The Court hereby adopts the parties' proposed briefing schedule for Third-Party Defendant TIAA's motion to dismiss and Defendant Fuller's § 724(c) motion.

BY ECF

Honorable Jennifer H. Rearden, U.S.D.J.
United States District Court
Southern District of New York 500
Pearl Street, Room 1010
New York, NY 10007

The Clerk of Court is directed to terminate ECF No. 44.

SO ORDERED.


Jennifer H. Rearden, U.S.D.J.
Date: February 9, 2024

RE: Nuveen Services, LLC v. Xavier Fuller v. TIAA (JHR-GS)
Action No.: 1:23-cv-09942

Dear Judge Rearden:

We represent Xavier Fuller in this matter. We write on behalf of all parties to request that the Court so order a combined briefing schedule for motions arising from Mr. Fuller's third-party action against TIAA.

On January 26, 2024, Mr. Fuller filed a third-party action against Teachers Insurance and Annuity Association of America ("TIAA") seeking indemnification and advancement of defense costs. Mr. Fuller additionally moved for an order for advancement pursuant to New York Business Corporation Law ("BCL") § 724(c). TIAA has waived service of the Verified Complaint and intends to move to dismiss the third-party complaint pursuant to Federal Rule of Civil Procedure § 12(b)(6). TIAA's opposition to the § 724(c) motion is predicated, in large part, on the arguments to be made in its motion to dismiss.

Counsels for the parties have consulted and believe addressing both applications together will be more efficient. Accordingly, the parties request the Court approve the following schedule:

- March 15, 2024: TIAA motion to dismiss the Third-Party Complaint and opposition to Mr. Fuller's § 724(c) motion
- April 5, 2024: Mr. Fuller opposition to TIAA's motion to dismiss the Third-Party Complaint and reply in further support of his § 724(c) motion
- April 15, 2024: TIAA's reply in further support of its motion to dismiss the Third-Party Complaint

If the Court would prefer one combined memorandum of law addressing the motions together, rather than separate memoranda, the parties will proceed accordingly.

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We note that on February 5, 2024, Mr. Fuller separately moved to dismiss Plaintiff Nuveen Services' Second Amended Complaint pursuant to FRCP § 12(b)(6). Nuveen will be filing its opposition on February 20, 2024 and Mr. Fuller's reply will be filed by February 27, 2024.

Counsels for the parties remain available should the Court have any questions or concerns with this proposal.

Respectfully submitted,



Evan W. Bolla